



United States Department of the Interior

FISH AND WILDLIFE SERVICE

1208-B Main Street
Daphne, Alabama 36526

NOV 16 2007

IN REPLY REFER TO:

Mr. Kirk Cover
Federal Energy Regulatory Commission
888 1st Street, NE
Washington, DC 20426

Mr. John Grogan
Alabama Power Company
P.O. Box 2641
Birmingham, Alabama 35291-0830

Dear Messer's Cover and Grogan:

On November 6, 2007, the Fish and Wildlife Service (Service), received an email from Alabama Power Company (APC), requesting our approval to return flows on the Coosa River to 1,600 cfs below Jordan Dam as specified in the Jordan Minimum Flow Reduction Agreement (Agreement), and to continue the emergency consultation under this Agreement. We understand that APC's request is based on the emergency circumstances caused by the continuation of extreme drought conditions across Alabama. As a result of the ongoing drought, the Coosa River basin inflows are less than 2,000 cfs, which is the Federal Energy Regulatory Commission (FERC), mandated minimum flow in the Coosa River below Jordan Dam. We agree that flows can return to 1,600 cfs immediately for the duration of the Agreement, and the action is covered under your ongoing emergency consultation. If FERC and APC propose to continue these lower flows beyond the December 1, 2007, Agreement termination date, a new consultation should be initiated. Further details are provided below.

Our comments are provided in accordance with the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), the Federal Power Act (41 Stat. 1063, as amended; 16 U.S.C. 791-828c et seq.), and the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. et seq.). Although the Service does not have the authority to approve or disapprove the proposed action, we do not oppose APC's request should the FERC authorize the action.

Emergency Consultation: July 13—December 1, 2007

We entered into emergency consultation, on July 13, 2007, on the request to conduct a "low flow test study" designed to capture more Coosa basin inflows. Through continued coordination and monitoring, we agreed that the consultation would be concluded by December 1, 2007, at which time APC would prepare a biological evaluation. Upon receipt of the biological evaluation, the

www.fws.gov



PHONE: 251-441-5181

FAX: 251-441-6222

Service would write an after-the-fact Biological Opinion (BO) and incidental take statement. At this time, we recommend that APC conclude its initial emergency consultation on December 1, 2007.

In order to facilitate this action we recommend that APC provide the Service with a biological evaluation, which includes the following:

- A description of the emergency.
- A justification for the expedited consultation.
- An evaluation of the response to and the impacts of the emergency on affected species and their habitats, including documentation of how the Services' recommendations were implemented, and the results of implementation in minimizing take.

Once we have APC's biological evaluation, we will conclude their consultation with an emergency, after-the-fact BO and incidental take statement for the twenty week consultation.

Emergency Consultation with FERC: December 2, 2007—End of Drought

Should FERC propose to authorize APC's request to continue the 1,600 cfs flows beyond December 1, 2007, we are prepared to immediately enter into emergency consultation with FERC as the lead federal agency authorizing this action. Because FERC and APC's proposed action is projected to last longer than the original "low flow test study," which was to conclude on December 1, 2007, a new consultation is warranted on this new action.

In accordance with the Emergency Consultation procedures contained in the Service's Endangered Species Consultation Handbook, we can continue the consultation with FERC as the lead federal agency for the duration of the drought emergency. At the conclusion of the drought emergency, and in order to conclude the consultation, FERC will need to provide us with a biological evaluation that includes:

- A description of the emergency.
- A justification for the expedited consultation.
- An evaluation of the response to and the impacts of the emergency on affected species and their habitats, including documentation of how the Services' recommendations were implemented, and the results of implementation in minimizing take.

Once we have FERC's biological evaluation, we will conclude their consultation with an emergency, after-the-fact BO and incidental take statement.

Recommendations to Minimize Affects to Listed Species and Proposed Course of Action

Should FERC approve APC's request, and enter into emergency consultation with the Service on the action of approving continuing flows of 1,600 cfs, the ESA mandates that we monitor the impact of reduced Coosa River flows below Jordan Dam on the tulotoma snail (*Tulotoma magnifica*), as well as other federally listed species downstream in the Alabama River that have

the potential to be impacted by this action. In order to facilitate this monitoring effort as a part of the emergency consultation, we make the following recommendations and proposed course of action.

1. We recommend that FERC and APC assist with the assessment of any direct/indirect impacts the reduced flows at Jordan Dam may have on listed species and their respective habitats downstream in the Alabama River. We also recommend that FERC and APC, along with federal and state agencies, develop a Monitoring Plan for the Alabama River. This plan would focus on addressing the potential impacts of reduced flows on federally listed species. The monitoring plan would include, but not limited to, collecting chemical (water quality, toxicity data) and biological (threatened and endangered species population data, including current tulotoma populations in Coosa River tributaries outside of APC's project boundaries) information pertinent to assess reduced flows and impacts on listed species.
2. That FERC and APC use an Adaptive Management approach to monitoring the Coosa and Alabama River basins. Also, FERC and APC should work with the Service and other agencies to agree upon criteria that would indicate the end of the drought emergency. This approach would include monthly and more detailed weekly meetings. The monthly meetings will be held during the first week of each month, and would provide a summary of the previous month's basin conditions. The monthly reviews would allow all parties to review several drought indicators. Such data would include, but not be limited to:
 - Changes in the NOAA Drought Monitor – when the 100% of the Coosa Basin is classified as D2 (extreme) or lower.
 - Addressing temporary increases in Coosa River Basin inflows – in coordination with the USGS and Service, APC should develop a method for tracking gauged Coosa Basin tributaries, downstream of the Corps projects in Georgia, and determine if inflows are at or near their median level for the appropriate time of the year. Determination of these inflows should be independent of flows being released from Corps projects in Georgia and existing reservoir levels at APC's Coosa River projects.
 - Multi-agency task force—to establish monitoring indicators designed to allow for the determination of the end of the drought. Data and methods used to potentially act as triggers would include, but not be limited to (these are modified from NOAA's National Weather Service Southeast River Forecast Center):
 - Detecting notable changes in the NOAA Drought Monitor and Palmer Index.
 - Developing a stream gauging methodology for streams in the Coosa Basin that would detect when stream flows approach a normal pattern.
 - Determine average historic length of past major droughts.
 - Document the persistence or subsidence of the La Nina climate pattern.

3. Weekly agency conference calls, (similar to those currently being conducted with APC, the Service, and state agencies) focused on evaluating important data such as: current water quality conditions, including dissolved oxygen and temperature; reservoir levels; and an evaluation of Coosa Basin inflows downstream of the Corps projects in Georgia.

We look forward to working with APC and FERC to address the emergency drought condition in the basin. If you have any questions or need additional information, please contact me at 251/441-5870.

Sincerely,



William J. Pearson
Field Supervisor
Alabama Ecological Services Field Office